IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 8627 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RIDDIBEN HEMANTBHAI PORECHA - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR MANOJ N POPAT for Applicant(s) : 1,
Mr. MR Mengdey, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
MR AM PAREKH for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/08/2007
ORAL JUDGMENT

By way of this application under Section 482 of the Code of Criminal Procedure the petitioner original-accused No.4 has prayed for

an appropriate order to quash and set aside the FIR being C.R. No. I-74/2007 registered at Bavla police station so far as the applicant is concerned.

2. The respondent No.2 herein original-complainant has filed FIR being CR No. I-74/2007 against the petitioner and others for the offences under Section 406, 420, 114 of the IPC. Original-accused No.1 is husband of original complainant; original-accused No. 2 and 3 are father-in-law and mother-in-law respectively. It is alleged in the complaint that original-complainant has got married with original-accused No.1 in the month of December 2000 as per Hindu rites and they were residing at their residence at Padra Road, Vadodara. It is averred in the complaint that her father had given some ornaments and other household articles at the time of marriage to the husband and his family and she had submitted a list of some 37 items. It is further alleged that because of the

pressure and instigation from her in-laws her husband had beaten her and driven out of the house and she is now staying with her parents with her kid at Bavla. It is further alleged that the accused persons have not returned the household articles/ornaments given at the time of marriage and therefore all the accused persons have committed offences punishable under Section 406, 420, 114 of the IPC. As the said complaint is filed by the petitioner, original-accused No.4 also and according to the petitioner the aforesaid complaint has been filed only with a view to harass her and she has nothing to do with internal family matter of the complainant and husband. It is also submitted that she is not the family member, she is unmarried and staying at her parents house working as insurance agent and therefore it is requested to quash the complaint/FIR.

3. Learned advocate on behalf of original-complainant has tried to submit that a prima

facie case is made against the petitioner also for the offences under Section 406, 420, 114 of the IPC. As it is alleged that the petitioner was instigating the original-accused No.1 there was no illtreatment by her husband and therefore it is requested not to exercise the powers under Section 482 of the Code of Criminal Procedure.

3.1. Shri Mengdey, learned APP has submitted to pass appropriate order considering the averments and allegations in the complaint.

4. Heard the learned advocates appearing for the parties. At the outset it is required to be noted that on bare reading of the averments and allegations in the complaint the dispute seems to be between the original-complainant and original-accused No. 1 to 3. It is required to be noted that so far as the petitioner is concerned she is not the family member of the husband of the original-complainant and the main dispute seems to be of not returning the household

articles/some ornaments which were given at the time of marriage to the original-accused No. 1 to 3. On bare reading of the averments and allegations in the complaint and even taking them on their face value it cannot be said that the petitioner original-accused has committed any offence as alleged under Section 406, 420, 114 of the IPC. It is not appreciable how by not returning the household articles/some ornaments which were given at the time of marriage to the accused No. 1 to 3, petitioner original-accused No.4 who is not the family member has committed any offence under Section 406, 420, 114 of the IPC. Under the circumstances even on bare reading of the complaint/FIR it appears that to continue the criminal proceedings against the petitioner original-accused No.4 would be abuse of process of Court and harassment to the petitioner as no case is made out against the petitioner for the offences under Section 406, 420, 114 of the IPC.

5. Under the circumstances this is a fit case to exercise powers under Section 482 Cr.P.C., and the case on hand falls within the parameters of exercise of powers under Section 482 of the Cr.P.C.

6. For the reasons stated above, the petition succeeds. The impugned FIR being C.R. No. I-74/2007 registered at Bavla police station is hereby quashed and set aside qua the petitioner original-accused No.4 also. Rule is made absolute accordingly.

[M.R. Shah, J.]

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